

Exhibit A

Case 2:09-cv-00190-TS Document 88 Filed 05/09/11 Page 1 of 7

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

JAMES DEMARCO, et al.,
Plaintiffs,

vs.

MICHAEL LAPAY, et al.,
Defendants.

MEMORANDUM DECISION AND
ORDER GRANTING DEFENDANTS
JOE WRONA AND WRONA
OFFICES, P.C.'S MOTION FOR
SUMMARY JUDGMENT

Case No. 2:09-CV-190 TS

Before the Court is Defendant Joe Wrona and Wrona Offices, P.C.'s (collectively, "Wrona") Motion for Summary Judgment on Plaintiff's Fourth and Sixth Causes of Action.¹ Wrona contends that it is entitled to summary judgment on Plaintiff's Fourth Cause of Action for real estate broker malpractice because Wrona has never been a real estate broker. Wrona further contends that it is entitled to summary judgment on Plaintiff's Sixth Cause of Action for legal malpractice because Plaintiffs cannot demonstrate that Wrona was the actual and proximate cause of Plaintiff's alleged harm.

¹Docket No. 77.

Plaintiffs have not yet responded to the motion and have informally notified the Court that they do not intend to file any response. The Court has reviewed Wrona's Motion and finds that Wrona is entitled to the relief it seeks. For the reasons set forth below, the Court will grant Wrona's Motion for Summary Judgment.

I. UNDISPUTED FACTS

Plaintiffs are a group of real estate investors who entered into a series of contracts to purchase units in the Silver Star Project located in Park City, Utah. In 2008, Plaintiff Cheryl De Marco ("C. De Marco") contacted Wrona by telephone and asked if Wrona would represent Plaintiffs in an effort to renegotiate its contractual liabilities with Prudential Utah Real Estate ("Prudential"). During the telephone call, Wrona disclosed to C. De Marco that Wrona had previously provided legal services to Prudential, although not in connection with any of the Silver Star Project sales involving Plaintiffs. Wrona informed C. De Marco that Wrona would be uncomfortable representing C. De Marco if she intended to assert claims against Prudential. C. De Marco informed Wrona that Plaintiffs did not desire or intend to assert claims against Prudential and wanted his assistance in negotiating a resolution with Paladin Development Partners, LLC ("Paladin"). The next day, Wrona had an identical discussion with Plaintiff Jeffery Ott.

C. De Marco and Jeffery Ott agreed to Wrona's representation and executed a Representation Agreement on September 29, 2008. The opening paragraph of the Representation Agreement stated:

You have asked Wrona Law Offices, P.C. to represent you in a dispute with the developers of the Silver Star Project in Park City, Utah. I spoke with Cheryl via

telephone about the dispute, and I have also spoken to Jeff about the dispute. I have disclosed both times that I formerly served as general legal counsel to Prudential Utah Real Estate. You are aware that Michael LaPay is a Prudential agent and that Mr. LaPay was the listing agent for the Silver Star project. Unless and until it appears that a legitimate claim exists against Mr. LaPay and/or Prudential, I am able to represent you in this matter pursuant to the terms set forth below[.]²

Shortly after the execution of this Agreement, Wrona commenced negotiations with Paladin on Plaintiffs' behalf. Wrona obtained a proposed solution from Paladin which was submitted to, and ultimately rejected by, Plaintiffs. Around this same time, Plaintiffs became delinquent in their payment obligations to Wrona. On December 21, 2008, Wrona informed Plaintiffs that Wrona needed to withdraw as their legal counsel. Plaintiffs consented to this withdrawal on January 7, 2009.

After Wrona's representation of Plaintiffs concluded, Wrona continued to attempt to collect legal fees from Plaintiffs. After efforts to negotiate a resolution failed, Wrona filed a collection action against Plaintiffs and obtained a judgment against Plaintiffs.

In March of 2009, Plaintiffs filed their Complaint in this action. Therein, Plaintiffs allege that Wrona breached his duty and committed malpractice as the real estate broker (Fourth Cause of Action) and breached his professional responsibility as an attorney by committing malpractice (Sixth Cause of Action). Wrona has moved for summary judgment on these claims,

²Docket No. 80, at 4.

II. LEGAL STANDARD

Summary judgment is proper if the moving party can demonstrate that there is no genuine issue of material fact and it is entitled to judgment as a matter of law.³ In considering whether genuine issues of material fact exist, the Court determines whether a reasonable jury could return a verdict for the nonmoving party in the face of all the evidence presented.⁴ The Court is required to construe all facts and reasonable inferences in the light most favorable to the nonmoving party.⁵

“The standard is somewhat modified in an unopposed motion for summary judgment.”⁶ “[I]t is improper to grant a motion for a summary judgment simply because it is unopposed.”⁷ “It is the role of the court to ascertain whether the moving party has sufficient basis for judgment as a matter of law. In so doing, the court must be certain that no undisclosed factual dispute would undermine the uncontroverted facts.”⁸ The Court “must consider the plaintiff’s . . . claim based

³See Fed.R.Civ.P. 56(a).

⁴See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986); *Clifton v. Craig*, 924 F.2d 182, 183 (10th Cir. 1991).

⁵See *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986); *Wright v. Sw. Bell Tel. Co.*, 925 F.2d 1288, 1292 (10th Cir. 1991).

⁶*Thomas v. Bruce*, 428 F. Supp. 2d 1161, 1163 (D. Kan. 2006). The Court notes that Plaintiff technically filed a response to Defendant’s motion, but declined the opportunity to respond to the merits of the Motion.

⁷*E.E.O.C. v. Lady Balt. Foods, Inc.*, 643 F. Supp. 406, 407 (D. Kan. 1986) (citing *Hibernia Nat’l Bank v. Administracion Central Sociedad Anonima*, 776 F.2d 1277, 1279 (5th Cir. 1985)).

⁸*Thomas*, 428 F. Supp. 2d at 1163 (citing *Lady Balt. Foods*, 643 F. Supp. at 407).

on the record properly before the court, viewing the uncontested facts in the light most favorable to the non-moving party.”⁹

III. DISCUSSION

Wrona contends it is entitled to summary judgment on Plaintiffs’ Fourth Cause of Action because Wrona has never been a real estate broker and is, therefore, not subject to real estate broker’s duties. In support of this argument, Wrona provides a letter from the Utah Division of Real Estate which states that it “has no record of Joseph E. Wrona ever being licensed in Utah as a real estate agent or broker. There is no record of Mr. Wrona being associated as a broker with Prudential Utah Real Estate.”¹⁰ Indeed, Wrona presents to the Court a certified record from the Utah Division of Real Estate which confirms that an individual named Dougan T. Jones has been the principal broker of Prudential since 2002—well before the transactions at issue were consummated.

Based on the record before the Court, it can find no undisclosed factual dispute which would undermine this clear evidence that Wrona has never been a real estate broker. As Wrona is not a licensed real estate broker, Wrona is not subject to real estate broker duties and Plaintiffs’ Fourth Cause of Action fails as a matter of law. The Court will, therefore, grant Wrona’s Motion for Summary Judgment on Plaintiffs’ Fourth Cause of Action.

⁹*Sanchez-Figueroa v. Banco Popular de Puerto Rico*, 527 F.3d 209 (1st Cir. 2008).

¹⁰Docket No. 80, at 8-9.

Case 2:09-cv-00190-TS Document 88 Filed 05/09/11 Page 6 of 7

Wrona further contends, among other things,¹¹ that it is entitled to summary judgment on Plaintiffs' Sixth Cause of Action because Plaintiffs cannot demonstrate that Wrona was the actual and proximate cause of Plaintiffs' alleged harm. To prevail in a legal malpractice action, the plaintiff must "show that if the attorney had adhered to the ordinary standards of professional competence and had done the act he failed to do or not done the act complained about, the client would have benefitted."¹² Thus, Plaintiffs must demonstrate that, but for the complained of conduct, Plaintiffs would have received a more favorable outcome.

From the record before the Court, it can find no evidence that Plaintiffs would have received a benefit had Wrona acted differently during his tenure as their counsel. The Court concludes that Plaintiff has failed to demonstrate that Wrona was the actual and proximate cause of any harm to Plaintiffs. The Court, therefore, will grant Wrona's request for summary judgment on Plaintiffs' Sixth Cause of Action.

IV. CONCLUSION

It is therefore

ORDERED that Defendants Joe Wrona and Wrona Offices, P.C.'s Motion for Summary Judgment On Plaintiffs' Fourth and Sixth Cause of Action (Docket No. 77) is GRANTED.

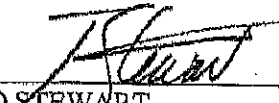
¹¹Wrona contends that it is entitled to summary judgment because Plaintiff has failed to sufficiently plead their legal malpractice action. While this may or may not be true, the defense of failure to state a claim upon which relief can be granted may only be raised in specific instances, *see* Fed.R.Civ.P. 12(h)(2), and a motion for summary judgment under Fed.R.Civ.P. 56(a) is not among them.

¹²*Christensen & Jensen, P.C. v. Barret & Daines*, 194 P.3d 931, 938 (Utah 2008) (internal quotation marks and citation omitted).

Case 2:09-cv-00190-TS Document 88 Filed 05/09/11 Page 7 of 7

DATED May 9, 2011.

BY THE COURT:



TED STEWART
United States District Judge

Exhibit B

WRONA LAW FIRM, P.C.

Joseph E. Wrona (#8746)

Jared C. Bowman (#11199)

1745 Sidewinder Drive

Park City, Utah 84060

Telephone: (435) 649-2525

Facsimile: (435) 649-5959

Attorneys for Defendants Joseph Wrona and
Wrona Law Offices, P.C.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

JAMES DE MARCO; CHERYL DE
MARCO; GEORGE DE MARCO; JEFFREY
OTT; NANCY OTT; SLOPESIDE
PROPERTIES; LLC and JOHN/JANE DOES
26-50,

Plaintiffs,

vs.

MICHAEL LAPAY, HEATHER PETERSON,
CARRIE SHOAF, DUSTY ORRELL,
KEELIE WEST, DICK STONER, as
individuals and/or as agents for Prudential
Utah Real Estate; PRUDENTIAL UTAH
REAL ESTATE; PALADIN
DEVELOPMENT PARTNERS, LLC, a Utah
limited liability company; MICHAEL
LAPAY, RORY MURPHY, GEORGE
BRYANT, and CHRISTOPHER CONABEE,
as individuals and/or as agents and/or as
managers of Paladin Development Partners,
LLC; ORCO CONTRACTING, LLC;
WILLIAM R. OKLAND; BRETT J.
OKLAND; PREMIER RESORTS aka DEER
VALLEY LODGING, JOE WRONA
individually and WRONA OFFICES, PC and

**SUPPLEMENTAL AFFIDAVIT OF
JOSEPH E. WRONA**

Case No. 2:09cv00190

Judge: Ted Stewart

JOHN/JANE DOES 1-25,	
Defendants.	

STATE OF UTAH)
): ss
COUNTY OF SUMMIT)

JOSEPH E. WRONA, being first duly sworn on his oath deposes and says:

1. I am over the age of 18, and competent to testify and have personal knowledge regarding the matter stated in this affidavit.

2. I am the owner and manager of Wrona Law Firm, P.C. ("Wrona Law"), a law firm of 16 attorneys with offices in Park City, Draper and Heber, Utah.

3. In December of 2008, the DeMarco Plaintiffs became delinquent on their payments to Wrona Law.

4. On December 21, 2008, I informed the DeMarco Plaintiffs that it would be best if Wrona Law and I withdrew as their counsel.

5. On January 7, 2009, that withdrawal took place as that is the date the DeMarco Plaintiffs consented to the withdrawal.

6. Wrona Law, however, continued to send monthly invoices to the DeMarco Plaintiffs so that the DeMarco Plaintiffs would know the amount they owed to Wrona Law, and did so until January 7, 2011.

7. Despite these monthly invoices and my attempts to negotiate a resolution to the payment issue, the DeMarco Plaintiffs refused to pay the attorney fees they owed Wrona Law.

8. Eventually, Wrona Law was forced to file a collection action against the DeMarco Plaintiffs in small claims court.

9. On March 3, 2009, eleven (11) days after service of the collection action on the DeMarco Plaintiffs the DeMarco Plaintiffs filed the present Federal Action.

10. After filing the Federal Action, the DeMarco Plaintiffs continued refusing to pay Wrona Law what the DeMarco Plaintiffs were contractually obligated to pay.

11. On or about March 30, 2009, I telephoned the DeMarco Plaintiffs' counsel, Thomas Klc, and informed him of the falsity of the DeMarco Plaintiffs' accusations.

12. I followed up my telephone conversation with Mr. Klc by providing written evidence of the falsity of the DeMarco Plaintiffs' allegations.

13. On April 15, 2009, Wrona Law obtained a default judgment in the collection action against the DeMarco Plaintiffs.

14. The DeMarco Plaintiffs, however, refused to pay the small claims court judgment and instead moved to set aside the default judgment.

15. The small claims court set aside the default judgment and scheduled a bench trial to take place on July 15, 2009.

16. On July 15, 2009, the small claims court held a bench trial and awarded judgment in favor of Wrona Law.

17. The DeMarco Plaintiffs, however, still refused to pay Wrona Law despite the judgment against the DeMarco Plaintiffs.

18. On May 9, 2011, the Court granted summary judgment against the DeMarco Plaintiffs on all of the DeMarco Plaintiffs' claims against me and Wrona Law in this Action after the DeMarco Plaintiffs failed to even respond to my Motion for Summary Judgment.

19. Despite acknowledging the meritlessness of their claims and failing to appeal any of the judgments against them, the DeMarco Plaintiffs have never attempted to satisfy the Judgment obtained by Wrona Law.

FURTHER AFFIANT SAYETH NOT.



Joseph E. Wrona

SUBSCRIBED AND SWORN to before me this 1st day May, 2012.



NOTARY PUBLIC

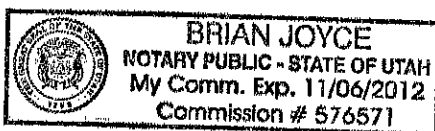


Exhibit C

3RD DISTRICT CT- SILVER SUMMIT
SUMMIT COUNTY, STATE OF UTAH

WRONA LAW OFFICES PC vs. CHERLY L DEMARCO

CASE NUMBER 098500044 Small Claim

CURRENT ASSIGNED JUDGE
BRUCE LUBECK

PARTIES

Plaintiff - WRONA LAW OFFICES PC
Represented by: JARED C BOWMAN

Defendant - CHERLY L DEMARCO
Represented by: THOMAS J KLC

Defendant - JEFFREY D OTT
Represented by: THOMAS J KLC

ACCOUNT SUMMARY

TOTAL REVENUE	Amount Due:	190.00
	Amount Paid:	190.00
	Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: SMALL CLAIMS 2K-MORE

Amount Due:	70.00
Amount Paid:	70.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: SMALL COUNTER 7500->

Amount Due:	120.00
Amount Paid:	120.00
Amount Credit:	0.00
Balance:	0.00

CASE NOTE

PROCEEDINGS

02-11-09 Filed: Small Claims Affidavit And Summons 2K-MORE
02-11-09 Case filed
02-11-09 Judge BRUCE LUBECK assigned.

CASE NUMBER 098500044 Small Claim

02-11-09 Fee Account created Total Due: 70.00
02-11-09 SMALL CLAIMS 2K-MORE Payment Received: 70.00
Note: Code Description: SMALL CLAIMS 2K-MORE
02-11-09 BENCH TRIAL scheduled on March 18, 2009 at 03:00 PM in JUSTICE
CENTER COURT with Judge PROTEM JUDGE.
02-17-09 BENCH TRIAL rescheduled on April 15, 2009 at 03:00 PM
Reason: Unable to serve.
03-20-09 Filed return: Small Claims Affidavit and Order
Party Served: DEMARCO, CHERLY L
Service Type: Personal
Service Date: March 12, 2009
03-20-09 Filed return: Small Claims Affidavit and Order
Party Served: DEMARCO, CHERLY L
Service Type: Personal
Service Date: February 20, 2009
03-26-09 Filed: Small Claims Response To Affidavit. Request For
Dismissal
04-15-09 Minute Entry - Minutes for SMALL CLAIMS BENCH TRIAL
Judge: SMALL CLAIMS PROTEM JUDGE
Clerk: brittanm
PRESENT
Plaintiff(s): WRONA LAW OFFICES PC
Tape Number: Off Record

HEARING

TAPE: Off Record Pro Tem Judge Polly McLean, Attorney Jared Bowman
appearing on behalf of plaintiff. Judgment for plaintiff in the
amount of \$3226.41
04-17-09 Judgment Entered - Amount \$3226.41
04-17-09 Filed judgment: Small Claim Judgment
Judge SMALL CLAIMS PROTEM JUDGE
Signed April 15, 2009
04-17-09 Case Disposition is Judgment
Disposition Judge is SMALL CLAIMS PROTEM JUDGE
04-17-09 Case Disposition is Set aside/Withdrawn
Disposition Judge is SMALL CLAIMS PROTEM JUDGE
04-23-09 Filed: Motion To Set Aside
Filed by: DEMARCO, CHERLY L
04-28-09 Filed: Opposition to Motion to Set Aside Default Judgment
05-06-09 Filed order: Motion To Set Aside and Order
Judge SMALL CLAIMS PROTEM JUDGE
Signed May 06, 2009
05-06-09 BENCH TRIAL scheduled on July 15, 2009 at 03:00 PM in JUSTICE
CENTER COURT with Judge PROTEM JUDGE.
05-07-09 Filed: Response To Opposition To Motion To Set Aside Default
Judgment

CASE NUMBER 098500044 Small Claim

06-12-09 Filed: Small Claims Counter Affidavit And Summons 7500->
06-12-09 Fee Account created Total Due: 120.00
06-12-09 SMALL COUNTER 7500-> Payment Received: 120.00
Note: Code Description: SMALL COUNTER 7500->
07-15-09 Judgment #1 Modified \$ 3226.41 Disposition: Set aside
07-15-09 Minute Entry - Minutes for SMALL CLAIMS BENCH TRIAL
Judge: SMALL CLAIMS PROTEM JUDGE
Clerk: brittanm
PRESENT
Plaintiff's Attorney(s): JARED C BOWMAN
Defendant's Attorney(s): THOMAS J KLC
Tape Number: Off Record Tape Count: None

HEARING

TAPE: Off Record COUNT: None
Pro Tem Judge Randy Birch. Both parties present and plaintiff presents case and evidence. Defendant rebuttals and also provides evidence. Judgment for plaintiff in the amount of \$2405.53. Copy of judgment and all evidence given to parties in open court.
Either party may file an appeal up to 30 days from date of judgment
07-15-09 Judgment #2 Entered \$ 2405.83
Creditor: WRONA LAW OFFICES PC
Debtor: CHERLY L DEMARCO
Debtor: JEFFREY D OTT
2,113.33 Principal
292.50 Costs
2,405.83 Judgment Grand Total
07-15-09 Filed judgment: Small Claim Judgment
Judge SMALL CLAIMS PROTEM JUDGE
Signed July 15, 2009

Exhibit D

2/24/09

Thomas J. Klc, Utah State Bar #1836
 Thomas J. Klc & Associates
 4725 South Holladay Boulevard Suite 110
 Salt Lake City, UT 84117
 (801)277-3033 (Telephone)
 (801)424-0258 (Telefax)
 tomklc@prodigy.net

WORKING
COPY

Attorney for Defendants

DISTRICT COURT OF SUMMIT COUNTY
 THIRD JUDICIAL DISTRICT
 Address: 6300 North Silver Creek Road, Park City, Utah 84098

WRONA LAW OFFICES, P.C.,	SMALL CLAIMS RESPONSE TO AFFIDAVIT. REQUEST FOR DISMISSAL.
Plaintiff	
v.	
CHERLY L. DEMARCO AND JEFFREY D. OTT	Case No. 098500044
Defendants	

COMES NOW DEFENDANTS, by and through their attorney, and RESPONDS TO
 PLAINTIFFS SMALL CLAIMS AFFIDAVIT and requests deferral as follows:

1. DEFENDANTS deny the allegations of Plaintiff.
2. DEFENDANTS have filed an action in the U.S. District Court for the District of Utah against PLAINTIFF (James DeMarco, et. al. v. Michael LaPay, et. al., Case No. 2:09cv00190) which exceeds the jurisdictional amount of the small claims court and includes the same subject matter.
3. DEFENDANTS request that the court dismiss this matter without prejudice, or otherwise defer the same pending resolution of the matter in U.S. District Court.

DATED this 24th day of MARCH, 2009.

Copy sent to PLAINTIFFS

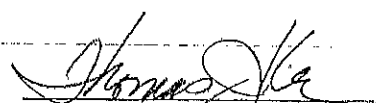

 Thomas J. Klc
 Attorney for Defendants

Exhibit E



WRONA LAW OFFICES
ATTORNEYS AT LAW

March 30, 2009

Thomas J. Klc
Attorney at Law
4725 South Holladay Blvd., #110
Salt Lake City, Utah 84117-5402

Re: *James De Marco, et al. v. Michael LaPay, et al.*
Case No.: 2:09cv00190

Dear Mr. Klc:

You have filed a civil action naming me and my law firm as defendants in case no. 2:09cv00190. I have already spoken to you on the telephone and informed you that contrary to the blatantly false allegations in your Complaint:

1. I have never acted as a real estate agent and have never held a real estate agent's license;
2. I have never acted as a real estate broker and have never held a real estate broker's license; and
3. I have never been an owner, partner, shareholder, member, officer or employee of Prudential Utah Real Estate.

During my telephone call to you, I also informed you that:

1. Prudential Utah Real Estate is a dba of Extreme Holding, LLC;
2. The principal broker of Prudential Utah Real Estate for the past six years has been Dougan Jones; and
3. The registered agent for Prudential Utah Real Estate and of Extreme Holding, LLC is attorney Keith W. Meade.

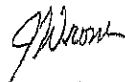
Enclosed is a certificate of fact issued by the Utah Department of Commerce confirming that Prudential Utah Real Estate is a dba registered by Extreme Holding, LLC on April 6, 2001, and that Keith W. Meade is the registered agent for Prudential Utah Real Estate. Also enclosed is a letter issued by Keith W. Meade to you which separately confirms that I am not a principal of Prudential Utah Real Estate, and a certified record from the Utah Division of Real Estate confirming that Dougan T. Jones has been the principal broker of Prudential Utah Real Estate since 2002.

Thomas J. Kle
March 26, 2009 Letter
Page 2

Federal Civil Rule 11 requires you to conduct an investigation into the actual allegations set forth in any pleading that you sign. Civil Rule 11 also requires that you correct any misrepresentations of fact once you become aware of an inaccuracy in a pleading. If you persist in asserting wrongful claims against me or my law firm in this matter, I will file a motion for Rule 11 sanctions in conjunction with a motion to dismiss me and my firm from this action. I will also file a grievance with the Utah Bar Association, and I will file suit against you and your clients for abuse of process.

By this letter, I am demanding that you immediately amend your complaint and remove me and my firm as named defendants. Please do not force me to take any additional action.

Sincerely,



Joseph E. Wrona

Encl.



Utah Department of Commerce
Division of Corporations & Commercial Code
160 East 300 South, 2nd Floor, S.M. Box 146705
Salt Lake City, UT 84114-6705
Phone: (801) 530-4849
Toll Free: (877) 526-3994 Utah Residents
Fax: (801) 530-6438
Web Site: <http://www.commerce.utah.gov>

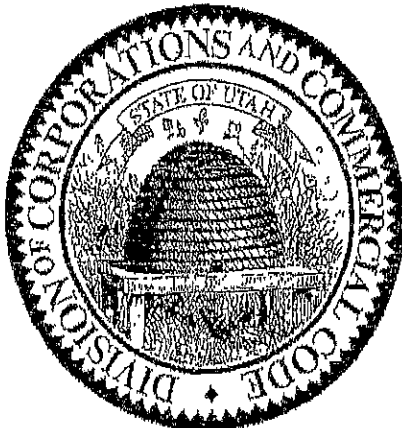
Registration Number: 4902115-0151
Business Name: PRUDENTIAL UTAH REAL ESTATE
Registered Date: APRIL 06, 2001

March 19, 2009

CERTIFICATE OF FACT

THE UTAH DIVISION OF CORPORATIONS AND COMMERCIAL CODE ("DIVISION") HEREBY CERTIFIES THAT THE FOLLOWING ARE PRINCIPALS CURRENTLY ON FILE WITH THE ABOVE NAMED BUSINESS, HAVING MET ALL REQUIREMENTS FOR REGISTRATION IN THE STATE OF UTAH.

KEITH W MEADE-REGISTERED AGENT
EXTREME HOLDING, L.L.C.-APPLICANT
NO ADDITIONAL PRINCIPALS LISTED



A handwritten signature in cursive script, reading "Kathy Berg".

Kathy Berg
Division Director of
Corporations and Commercial Code

Dept. of Professional Licensing
(801)530-6628

Real Estate
(801)530-6747

Public Utilities
(801)530-6651

Securities
(801)530-6600

Consumer Protection
(801)530-6601



State of Utah
Department of Commerce
Division of Real Estate

JON HUNTSMAN, JR.
Governor

FRANCINE GIANI
Executive Director

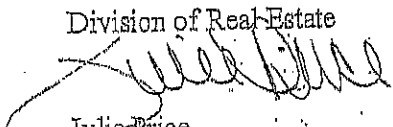
MARK B. STEINAGEL
Real Estate Division Director

March 19, 2009

CERTIFICATION OF DOCUMENTS

I hereby certify that the attached documents are copies of official Utah Division of Real Estate documents.

Division of Real Estate

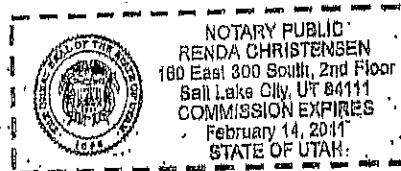

Julie Price
Office Specialist

State of Utah)
 ss.
County of Salt Lake)

On this 19 day of March, 2009, I certify that the preceding or attached document, is a true, exact, complete and unaltered photocopy made by me of the mortgage statistics documents, presented to me by the document's custodian, Julie Price.



Notary Public



[illegible]

**COHNE
RAPPAPORT
& SEGAL**

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

237 EAST 200 SOUTH, Suite 700
SALT LAKE CITY, UTAH 84111
(801) 532-2666
(801) 355-1813 FAX

Mailing Address
POST OFFICE BOX 11008
SALT LAKE CITY, UTAH
84147-0008

*Richard A. Rappaport
Roger G. Segal
Jeffrey L. Silvestrini
David S. Dolowitz
Vernon L. Hopkinson
Keith W. Meade
Ray M. Beck
A.O. Heathman, Jr.
Julia A. Bryan
Jeffrey R. Orlin*

*Daniel J. Torkelson
Leslie Van Frank
Larry R. Kallar
Derek C. Sarandos
Edward T. Vasquez
Joshua K. Paterman
Kevin A. Turner
Bradley M. Strussberg
Pete B. Sarandos
Matthew G. Nielsen*

March 11, 2009

Thomas J. Klc.
4725 South Holladay Blvd., Suite 110
Salt Lake City, UT 84117

Dear Mr. Klc:

I am the registered agent for Prudential Utah Real Estate. I am authorized to accept service on behalf of Prudential Utah Real Estate and the individual agents of the company that you have identified in the Complaint in the matter entitled James DeMarco v. Michael LaPay, et al., Case No. 2:09cv00190. If you want to send me an acceptance of service, we will cooperate with you.

Joseph E. Wrona is not the registered agent for Prudential Utah Real Estate. Neither is he "doing business as Prudential Utah Real Estate".

I am not aware that any of the agents of Prudential or the company itself have been served with the Summons or Complaint in this matter. It is my intention to file a written response if service is effected.

Very truly yours,

COHNE, RAPPAPORT & SEGAL, P.C.

Keith W. Meade

7007 2560 0000 0952 2007

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Sent To _____
Street, Apt. No.,
or PO Box No. VLC
City, State, ZIP+4 _____

PS Form 3800, August 2006 See Reverse for Instructions

1. Article Addressed to:

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

THOMAS J. KLC
Attorney at Law
4725 S. Holladay Blvd
110
Salt Lake City UT 84117

2. Article Number

(Transfer from service label)

7007 2560 0000 3951 7213

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.
4. Restricted Delivery? (Extra Fee) ☐ Yes

A. Signature

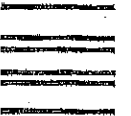
X *Thomas J. KLC* ☐ Agent ☐ Addressee

B. Received by (Printed Name) ☐ Date of Delivery

7/3/09

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Demarco Federal Litigation
Wrona Law Offices Pllc
1745 Siderwinder Dr
Park City UT 84068

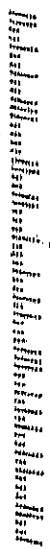


Exhibit F

Third District Court, State of Utah
Summit County, Silver Summit Department
6300 N. Silver Creek Drive, Park City, Utah 84098

Wrona Law Office P.C.

Name of Plaintiff(s)

Agent & Title

1745 Sidewinder Dr.

Street Address

Park City UT 84600

City, State, ZIP

Daytime Phone

SMALL CLAIMS
JUDGMENT

Cherly Demarco / Jeffrey DTT

Name of Defendant(s)

20361 Kelvingrove Ln Huntington Beach CA 92646

Social Security Number

532 Laguna Point

Street Address

Holland OH 43528

City, State, ZIP

Daytime Phone

Case No. 098500044

DATE OF TRIAL: April 15, 2009

PARTIES APPEARING: ☒ Plaintiff ☐ Defendant

THE COURT ORDERS JUDGMENT AS FOLLOWS:

☒ FOR PLAINTIFF ☐ FOR DEFENDANT ON COUNTER AFFIDAVIT

\$ 2126.41 Principal

\$ 1100.00 Court Costs

\$ 3226.41 Total Judgment, with interest at the current state post-judgment rate, until paid.

☐ FOR DEFENDANT ☐ FOR PLAINTIFF ON COUNTER AFFIDAVIT

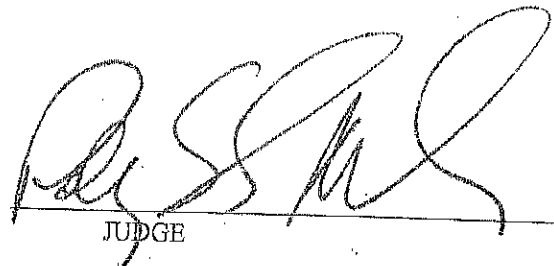
☐ No Cause of Action

☐ Dismissal With Prejudice (claim may not be refiled)

☐ Dismissal Without Prejudice (claim may be refiled)

This judgment is effective for 8 years.

Dated April 15, 20 09


JUDGE

NOTICE OF JUDGMENT
(ORIGINAL TO BE FILED WITH COURT)

On this date I certify that I ☒ mailed ☒ delivered a copy of this judgment to ☒ Plaintiff ☒ Defendant

Dated April 15, 20 09

V. B. Mitchell
Signature of Person Giving Notice of Judgment

Exhibit G

RECEIVED
MAY 11 2009

FILE

BY: _____

DISTRICT COURT OF SUMMIT COUNTY
THIRD JUDICIAL DISTRICT

THIRD DISTRICT COURT - SUMMIT

Address: 6300 North Silver Creek Road, Park City, Utah 84098-23 AM 8:14

WRONA LAW OFFICES, P.C.,	MOTION TO SET ASIDE AND ORDER FILED BY <u>DE</u>
Plaintiff	
v.	
CHERLY L. DEMARCO AND JEFFREY D. OTT	Case No. 098500044
Defendants	Assigned Judge:

[] Plaintiff [x] Defendant moves that the [] dismissal [x] default judgment entered on April 15, 2009, be set aside. The reason I did not appear at trial is:

Pursuant to the rules, I understood that I would be notified of a new trial date if the case was not dismissed.

I certify that I mailed a copy of this motion to set aside to [x] plaintiff [] defendant on (date) April 20, 2009 at the following address: Wrona Law Offices, P.C., 1745 Sidewinder Drive, Park City, Utah 84060

April 20, 2009
Date

Thomas Lee
Party's or Agent's Signature

ORDER OF THE COURT

This motion to set aside is

[] Denied.

[x] Granted. The trial is scheduled for:

July 15, 2009
Date of trial

3:00 PM
Time of trial

[] Moving party to pay other party's proven costs associated with the motion to set aside.

5/6/09
Date

[Signature]
Judge's Signature

I certify that I mailed a copy of this order to plaintiff and defendant at the address on file with the court.

May 6, 2009
Date

[Signature]
Clerk's Signature

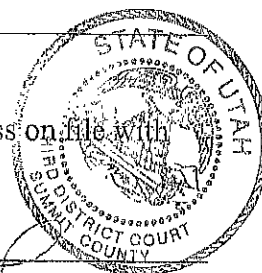


Exhibit H

Third District Court, State of Utah
Summit County, Silver Summit Department
6300 N. Silver Creek Drive, Park City, Utah 84098

Wrona Law Offices P.C.

Name of Plaintiff(s)

Agent & Title

1745 Sidewinder Dr.

Street Address

Park City UT

City, State, ZIP

Daytime Phone

SMALL CLAIMS
JUDGMENT

Cherry Demarco

Name of Defendant(s)

20361 Kelvingrove Ln Huntington Beach CA 92646

Social Security Number

Jeffrey Ott

Street Address

532 Laguna Point Holland OH 43526

City, State, ZIP

Daytime Phone

Case No. 0985000421

DATE OF TRIAL:

7/15/09

PARTIES APPEARING:

☒ Plaintiff

☒ Defendant

THE COURT ORDERS JUDGMENT AS FOLLOWS:

☒ FOR PLAINTIFF

☐ FOR DEFENDANT ON COUNTER AFFIDAVIT

\$ 2113³³

Principal + 18% interest till collected

\$ 292⁵⁰

Court Costs

\$ 2405³³

Total Judgment, with interest at the current state post-judgment rate, until paid.

☐ FOR DEFENDANT

☐ FOR PLAINTIFF ON COUNTER AFFIDAVIT

☐ No Cause of Action

☐ Dismissal With Prejudice (claim may not be refiled)

☐ Dismissal Without Prejudice (claim may be refiled)

This judgment is effective for 8 years.

Dated

7/15

, 20 09

JUDGE

NOTICE OF JUDGMENT

(ORIGINAL TO BE FILED WITH COURT)

On this date I certify that I

☐ mailed

☒ delivered a copy of this judgment to

☒ Plaintiff

☒ Defendant

Dated

July 15

, 20 09

Signature of Person Giving Notice of Judgment

Exhibit I

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH - CENTRAL DIVISION

JAMES DE MARCO, et al., Plaintiffs, v. MICHAEL LAPAY, et al., Defendants.	AMENDED SCHEDULING ORDER Case No. 2:09-cv-190-TS-PMW Chief District Judge Ted Stewart Magistrate Judge Paul M. Warner
---	---

Pursuant to Fed.R. Civ P. 16(b), the following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

- | 1. | PRELIMINARY MATTERS | DATE |
|-----------|--|-------------------|
| | Nature of claims and any affirmative defenses: | |
| a. | Was Rule 26(f)(1) Conference held? | <u>02/26/2010</u> |
| b. | Has Attorney Planning Meeting Form been submitted? | <u>03/08/2010</u> |
| c. | Was 26(a)(1) initial disclosure completed? | <u>04/01/2010</u> |
| 2. | DISCOVERY LIMITATIONS | NUMBER |
| a. | Maximum Number of Depositions by Plaintiff(s) | <u>10</u> |
| b. | Maximum Number of Depositions by Defendant(s) | <u>10</u> |
| c. | Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |
| d. | Maximum Interrogatories by any Party to any Party | <u>25</u> |
| e. | Maximum requests for admissions by any Party to any
Party | <u>No limit</u> |
| f. | Maximum requests for production by any Party to any
Party | <u>No limit</u> |
| g. | Discovery of electronically stored information should be handled as follows: | |

Electronically stored information will be subject to the same parameters of discovery as documents and will be produced in lieu thereof if such would generate a cost savings to the parties.

- h. Claim of privilege or protection as trial preparation material asserted after production shall be handled as follows: Absent specific identification of any item as attorney work product at the time of production, no claim of privilege or protection as trial preparation material may be asserted after production.

- | | | |
|-----------|--|-------------------|
| 3. | AMENDMENT OF PLEADINGS/ADDING PARTIES¹ | DATE |
| a. | Last Day to File Motion to Amend Pleadings | <u>05/01/2010</u> |
| b. | Last Day to File Motion to Add Parties | <u>05/01/2010</u> |
| 4. | RULE 26(a)(2) REPORTS FROM EXPERTS² | DATE |
| a. | Plaintiff | <u>02/27/2012</u> |
| b. | Defendant | <u>03/19/2012</u> |
| c. | Counter reports | <u>04/02/2012</u> |
| 5. | OTHER DEADLINES | DATE |
| a. | Discovery to be completed by: | |
| | Fact discovery | <u>12/13/2011</u> |
| | Expert discovery | <u>04/09/2012</u> |
| b. | (optional) Final date for supplementation of disclosures and discovery under Rule 26 (e) | <u>00/00/00</u> |
| c. | Deadline for filing dispositive or potentially dispositive motions | <u>04/09/2012</u> |
| 6. | SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION | DATE |
| a. | Referral to Court-Annexed Mediation: | |
| b. | Referral to Court-Annexed Arbitration | |
| c. | Evaluate case for Settlement/ADR on | |
| d. | Settlement probability: | |

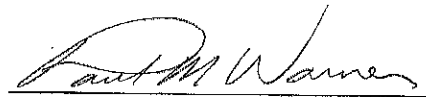
7.	TRIAL AND PREPARATION FOR TRIAL	TIME	DATE
a.	Rule 26(a)(3) Pretrial Disclosures ³		
	Plaintiff		<u>07/11/2012</u>
	Defendant		<u>07/25/2012</u>
b.	Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule)		<u>00/00/00</u>
c.	Special Attorney Conference ⁴ on or before		<u>08/08/2012</u>
d.	Settlement Conference ⁵ on or before		<u>08/08/2012</u>
e.	Final Pretrial Conference	2:30 p.m.	<u>08/22/2012</u>
f.	Trial	<u>Length</u>	
	i. Bench Trial		<u>00/00/00</u>
	ii. Jury Trial	<u>15 days</u>	8:30 a.m. <u>09/05/2012</u>

8. OTHER MATTERS

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

February 23, 2012.

BY THE COURT:



PAUL M. WARNER
U.S. Magistrate Judge

¹ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

² A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

³ Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

⁴ The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

⁵ The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

Exhibit J



Utah Department of
Commerce

Business Entity Search

[Help](#)

Business Entity Search - Principals:

Name	Type	City	Status
PRUDENTIAL UTAH REAL ESTATE	DBA	Midvale	Active

Position	Name	Address
Registered Agent	KEITH W MEADE	257 E 200 S STE 700 Salt Lake City UT 84111
Applicant	JOSEPH E WRONA	1816 PROSPECTOR AVE, SUITE 100 PARK CITY UT 84060

Additional Principals on file at Division of Corporations: N

[Back to search results](#)

[Do Another Search](#)

Your experience is important to us. Please click the link below to provide feedback.

[Feedback Form](#)

[Department of Commerce Home](#) |
 [Division of Corporations Home](#) |
 [Contact Us](#)
[Utah.gov Home](#) |
 [Utah.gov Terms of Use](#) |
 [Utah.gov Privacy Policy](#) |
 [Utah.gov Accessibility Policy](#)
 Copyright © 2008 State of Utah - All rights reserved.

Exhibit K

This form must be type written or computer generated.



State of Utah
DEPARTMENT OF COMMERCE
 Division of Corporations & Commercial Code
 Application for Preparing a Letter of Transfer
 for a Business Name Registration (DBA)

RECEIVED

NOV 18 2008

Utah Div. Of Corp. & Comm. Code



We stress that this application is not intended to substitute for nor replace the advice of legal counsel. The Division of Corporations and Commercial Code ("Division") does require a letter of transfer prepared by the old applicant(s) / owner(s). This letter must state from whom the business name is being assigned, listing the name of the old applicant(s) / owner(s) assigning the business name registration to the new applicant(s) / owner(s). If a letter of transfer cannot be created, a copy of a bill of sale is sufficient. The letter of transfer or copy of the bill of sale must be filed along with the amended business name registration form which is completed by the new applicant(s) / owner(s).

1) I, Joseph E. Wrona, request that the Division of Corporations transfer the
 Old Applicant's Name

Business name, Prudential Utah Real Estate from the old applicant to
 Business Name

the new applicant. The new applicant's name is: Extreme Holding, L.L.C.

2) The Address of the business is: 6975 South Union Park Center, Suite 620

Street Address

Midvale

City

Utah

State

84047

Zip

3) Name & Signature(s) of the old/new applicant(s) / owner(s).

Joseph E. Wrona - Old Applicant

Applicant/Owner

Extreme Holding, L.L.C. - New Applicant

Applicant/Owner

Applicant/Owner

Applicant/Owner

Wrona
 Signature of Applicant/Owner
Wagon T. Tamm CEO
 Signature of Applicant/Owner
 Signature of Applicant/Owner
 Signature of Applicant/Owner

IF NEEDED, YOU MAY USE AN ATTACHED SHEET FOR ADDITIONAL APPLICANTS INFORMATION.

Under penalties of perjury and as an authorized authority, I declare that this application of letter of transfer, has been examined by me and is, to the best of my knowledge and belief, true, correct and complete.

4) This letter of transfer must accompany the amended DBA form which is completed by the new applicant with signature.

Under GRAMA (63-2-201), all registration information maintained by the Division is classified as public record. For confidentiality purposes, you may use the business entity physical address rather than the residential or private address of any individual affiliated with the entity.

Mailing/Faxing Information: www.corporations.utah.gov/contactus.html Division's Website: www.corporations.utah.gov

11-18-08P03:43 RCVD

This form must be type written or computer generated



State of Utah
DEPARTMENT OF COMMERCE
Division of Corporations & Commercial Code
Doing Business As (DBA) Registration Information Change Form

VNS

RECEIVED

NOV 18 2008

Non-Refundable Processing Fee \$12.00

Utah Div. Of Corp. & Comm. Lock

Entity File Number 4902115-0151

Entity Name Prudential Utah Real Estate

For each Yes button that you mark the question will appear below for you to fill out

1) Do you want to Change the Business Purpose? ☐ Yes ☒ No2) Do you want to Change the Registered Agent or the Address of the Registered Agent? ☐ Yes ☒ No3) Do you want to Change the Principal Address of the Business Entity? ☐ Yes ☒ No4) Do you want to Add individuals to the Business Entity? ☐ Yes ☒ No5) Do you want to Remove individuals from the Business Entity? ☒ Yes ☐ No

5) If Yes, who do you want to Remove from the Business Entity and what Position do they hold?

Name Joseph E Wrona

Position Applicant

Name

Position Select/Type the position here

6) Do you want to Change the Address of the Business Entity's Principal(s)? ☐ Yes ☒ No

DBA
Receipt Number 2553284
Amount Paid \$12.00
11/18/2008

Under C.R.S. 63-2-201, all registration information maintained by the Division is classified as public record. For confidentiality purposes, you may use the business entity physical address rather than the residential or private address of any individual affiliated with the entity.

Under penalties of perjury and as an authorized authority, I declare that this statement of change(s) has been examined by me and is to the best of my knowledge and belief true, correct and complete.

Name/Title Keith W. Meade, Registered Agent

Signature

Date 11/12/08

Mailing/Faxing Information www.corporations.utah.gov/contactus.html Division's Website www.corporations.utah.gov